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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/666,612	09/20/2000	Bruno Bret	4574	1557

7590

11/23/2001

Mary J Breiner
115 North Henry Street
PO Box 19290
Alexandria, VA 22320-0290

EXAMINER

WILLIAMSON, MICHAEL A

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 11/23/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

69/666,612

Applicant(s)

BRET et al

Examiner

K. J. HANSON

Group Art Unit

16/6

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 9/26/01
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 22 and 23 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 22 and 23 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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DETAILED ACTION

Pending Claims

The pending claims in the instant application are 22 and 23. The only independent claim is 22.

Claim Rejections - 35 USC § 112

1. The rejection of claims 22 and 23 under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a lotion which is liquid at a temperature of at least 5° C, does not reasonably provide enablement for a lotion because the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims has been withdrawn in view of Applicant's amendments.

Claim Rejections - 35 USC § 103

2. The rejection of claims 22 and 23 under 35 U.S.C. 103(a) as being unpatentable over Yang et al. (U.S. Patent 2,944,931) in view of Allen (U.S. Patent 4,481,243) has been maintained for reasons of record in paper number 3, paragraph 4.

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Response to Arguments

3. Applicant's arguments filed September 26, 2001 have been fully considered but they are not persuasive. Applicant argues that there lacks motivation to combine that references because the primary reference teaches incorporating , by wet addition of the emollient, a composition including lanolin, to a paper slurry for imparting softness to the resulting tissue paper wherein the secondary reference teaches the incorporation of an emollient, a composition including cetearyl alcohol, by coating using state-of-the-art techniques to coat dry paper (see page 3, 3rd full paragraph continued on page 4).

Applicant is arguing process limitations which are given little or no weight in determining the patentability of the instant claim article. There is sufficient motivation to combine because the references because the final product taught in each reference is a facial tissues coated with an emollient. The motivation to combine the teaching is that the emollients taught impart a variety of properties including smoothness and softness to the resulting facial tissue paper while being able to reduce irritation.

Therefore, it would have been obvious to one of ordinary skill in the art to use the teachings of the secondary reference in the primary reference to obtain the article of the instant claimed invention in the absence of a factual showing to the contrary.

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Double Patenting

4. The rejection of claims 24 and 25 under 35 U.S.C. 101 as claiming the same invention as that of U.S. Patent No. 6,146,648 has been withdrawn in view of Applicant's amendment.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6.

Crystal Mall 1 Facsimile Center

A facsimile center has been established in Crystal Mall 1, room 7C10. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is (703) 308-4556. The new location should be used in all instances when faxing any correspondence to Group 1600. Use of the new Crystal Mall 1 center will facilitate rapid delivery of materials to the Group. The faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989).

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7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Michael A. Williamson whose telephone number is (703) 308-1235.

A handwritten signature in black ink, appearing to read 'M. Williamson', with a stylized, cursive script.

Michael A. Williamson
Patent Examiner
Group 1610

Williamson011119
November 19, 2001